

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN W. TALBOT,

Petitioner,

ORDER

v.

09-cv-28-bbc

LARRY L. JENKINS, Warden,
Redgranite Correctional Institution,

Respondent.

In this habeas corpus action brought pursuant to 28 U.S.C. § 2254, petitioner John Talbot has filed a petition raising a mix of exhausted and unexhausted claims. Dkt. #1. As discussed in this court's Rule 4 order, petitioner currently is in the process of exhausting four of his claims in the Wisconsin Court of Appeals. Dkt. #2. He has requested that this court stay the petition and hold it in abeyance until the state court of appeals rules on his state habeas petition filed pursuant to *State v. Knight*, 168 Wis. 2d 509, 484 N.W. 2d 540 (1992). Because respondent has advised the court that he does not oppose the stay, dkt. #6, I will grant petitioner's motion. *Rhines v. Weber*, 544 U.S. 269, 277 (2005).

ORDER

IT IS ORDERED that:

1. Petitioner's motion to stay and hold the petition in abeyance is GRANTED;
2. The instant petition is STAYED pending exhaustion of petitioner's state remedies on the condition that after completely exhausting his state court remedies, petitioner has 30 days from the date of the last order from the state courts in which to file a motion in this court to lift the stay. If petitioner fails to meet this condition, the stay may be vacated *nunc pro tunc* as of the date of this order and the petition may be dismissed.
3. The clerk of court is directed to close this case, subject to re-opening by petitioner upon the filing of his motion to lift the stay.

Entered this 6th day of February, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge